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Type of Instrument: JUDGMENT OF FORECLOS
Recorded: 1/8/2019
Index Number: 13 26474 Sequence Number: 108
Plaintiff(s) :

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WELLS FARGO BANK NA

Defendant(s) :

HART, JOHN A.

Attorney(s) :

TAX MAP NO:
0103-015.00-03.00-015.000

Liber Page(s):
M00021990-143

ADDITIONAL INFORMATION EXISTS PLEASE SEE DOCUMENT
THIS PAGE IS A PART OF THE INSTRUMENT
THIS IS NOT A BILL

Judith A. Pascale
County Clerk, Suffolk County

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21990 143

At IAS Term XL of the Supreme Court held in the County of Suffolk, at the Courthouse thereof on the 14th day of December, 2018.

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Present: Hon. JAMES C. HUDSON
JUSTICE OF THE SUPREME COURT

MOTION/CROSS/OSC
FEE PAID
Judith A. Pascale
Suffolk County Clerk

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WELLS FARGO BANK, NA

Plaintiff(s),

v.

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ANY UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF THE LATE JOHN A. HART, IF LIVING, AND IF ANY BE DEAD, ANY AND ALL PERSONS WHO ARE SPOUSES, WIDOWS, GRANTEES, MORTGAGEES, LIENORS, HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF SUCH OF THEM AS MAY BE DEAD, AND THEIR SPOUSES, HEIRS, DEVISEES, DISTRIBUTEES AND SUCCESSORS IN INTEREST, ALL OF WHOM AND WHOSE NAMES AND PLACES OF RESIDENCE ARE UNKNOWN TO THE PLAINTIFF, UNITED STATES OF AMERICA BY THE INTERNAL REVENUE SERVICE, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, CARRIE A. HART, JOHN J. HART, PAUL J. HART, SHIRLEY J. HART, VIRGINIA E. HART,

Defendant(s).

Index No.: 13-26474

ORDER CONFIRMING REFEREE REPORT AND JUDGMENT OF FORECLOSURE AND SALE

Mortgaged Property:
249 E Hoffman Ave
Lindenhurst, NY 11757

COUNTY: SUFFOLK
SBL#: 0103-015.00-03.00-015.000

ENTERED: JAN 08 2019
AT: 3:29pm

Upon the Summons, Complaint, and Notice of Pendency filed in this action on the 1st day of October, 2013 and re-filed on the 15th day of August, 2016, the Notice of Motion dated July 10, 2018, the affirmation of Cynthia M. Olin, Esq., the affidavit of merit and amount due by Stacey Daniels who is Vice President Loan Documentation of Wells Fargo, duly sworn to on July 8, 2016, together with the exhibits annexed thereto, all in support of Plaintiff's motion for a

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Judgment of Foreclosure and Sale; and

UPON proof that each of the Defendants herein has been duly served with the Summons and Complaint in this action, UNITED STATES OF AMERICA BY THE INTERNAL REVENUE SERVICE has voluntarily appeared either personally or by an attorney and ANY UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF THE LATE JOHN A. HART, IF LIVING, AND IF ANY BE DEAD, ANY AND ALL PERSONS WHO ARE SPOUSES, WIDOWS, GRANTEES, MORTGAGEES, LIENORS, HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF SUCH OF THEM AS MAY BE DEAD, AND THEIR SPOUSES, HEIRS, DEVISEES, DISTRIBUTEES AND SUCCESSORS IN INTEREST, ALL OF WHOM AND WHOSE NAMES AND PLACES OF RESIDENCE ARE UNKNOWN TO THE PLAINTIFF, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, CARRIE A. HART, JOHN J. HART, PAUL J. HART, SHIRLEY J. HART, and VIRGINIA E. HART have not served any answer to the Complaint or otherwise appeared, nor had their time to do so extended; and it appearing that more than the legally required number of days has elapsed since Defendants ANY UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF THE LATE JOHN A. HART, IF LIVING, AND IF ANY BE DEAD, ANY AND ALL PERSONS WHO ARE SPOUSES, WIDOWS, GRANTEES, MORTGAGEES, LIENORS, HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF SUCH OF THEM AS MAY BE DEAD, AND THEIR SPOUSES, HEIRS, DEVISEES, DISTRIBUTEES AND SUCCESSORS IN INTEREST, ALL OF WHOM AND WHOSE NAMES AND PLACES OF RESIDENCE ARE UNKNOWN TO THE PLAINTIFF, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, CARRIE A. HART, JOHN J. HART, PAUL J. HART, SHIRLEY J. HART, and VIRGINIA E. HART were so served

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and/or appeared; and Plaintiff having established to the court's satisfaction that a judgment against Defendants is warranted; and

UPON the affidavit of mailing reflecting compliance with CPLR 3215(g)(3)(iii); and

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UPON proof that non-appearing Defendants ANY UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF THE LATE JOHN A. HART, IF LIVING, AND IF ANY BE DEAD, ANY AND ALL PERSONS WHO ARE SPOUSES, WIDOWS, GRANTEES, MORTGAGEES, LIENORS, HEIRS, DEVISEES, DISTRIBUTEES OR

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SUCCESSORS IN INTEREST OF SUCH OF THEM AS MAY BE DEAD, AND THEIR SPOUSES, HEIRS, DEVISEES, DISTRIBUTEES AND SUCCESSORS IN INTEREST, ALL OF WHOM AND WHOSE NAMES AND PLACES OF RESIDENCE ARE UNKNOWN TO THE PLAINTIFF, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, CARRIE A. HART, JOHN J. HART, PAUL J. HART, SHIRLEY J. HART, and VIRGINIA E. HART are not absent, in accordance with RPAPL § 1321(2); and

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A Referee having been appointed to compute the amount due to Plaintiff upon the bond/note and mortgage set forth in the Complaint and to examine whether the mortgaged property can be sold in parcels; and

UPON reading and filing the Report of Andrew Meaney, Esq. dated April 2, 2018, showing the sum of $264,766.36 due as of March 16, 2018 and that the mortgaged property may not be sold in parcels; and

UPON proof of due notice of this motion upon all parties entitled to receive same, and upon all the prior proceedings and papers filed herein;

NOW, on motion by Cynthia M. Olin, Esq., attorney for Plaintiff, it is hereby

ORDERED, ADJUDGED AND DECREED that the motion is granted; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee's Report be, and the same is, hereby in all respects ratified and confirmed; and it is further

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ORDERED, ADJUDGED AND DECREED, that the mortgaged property described in the Complaint and as hereafter described, or such part thereof as may be sufficient to discharge the mortgage debt, the expenses of the sale, and the costs of this action as provided by the RPAPL be sold, within 90 days of the date of this Judgment, in one parcel, at a public auction at the

BABYLON TOWN HALL
200 EAST SUNRISE HIGHWAY
LINDENHURST, NY 11757

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by and under the direction of Andrew Meaney, Esq. who is hereby appointed Referee for that purpose; that said Referee give public notice of the time and place of sale in accordance with RPAPL § 231 in the Babylon Leader; and it is further

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ORDERED, ADJUDGED AND DECREED that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to § 36.2(c) ("Disqualifications from appointment") and § 36.2(d) ("Limitations on appointments based upon compensation"); and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee is prohibited from accepting or retaining any funds for him/herself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall conduct the foreclosure sale only if Plaintiff, its successors and/or assignees, or its representative is present at the sale or the Referee has received a written bid and Terms of Sale from Plaintiff, its successors and/or assigns, or its representative; and it is further

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ORDERED, ADJUDGED AND DECREED that at the time of sale the Referee shall accept a written bid from the Plaintiff of the Plaintiff's attorney, just as though Plaintiff were physically present to submit said bid; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee shall accept the highest bid offered by a bidder who shall be identified upon the court record, and shall require that the successful bidder immediately execute Terms of Sale for the purchase of the property, and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bid, unless the successful bidder is Plaintiff in which case no deposit against the purchase price shall be required; and it is further

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Ordered

In the event that the property is sold at auction to a third party, the Plaintiff shall appear by counsel at the scheduled closing

and it is Further

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ORDERED, ADJUDGED AND DECREED that, in the event the first successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject property or fails to immediately pay the ten percent (10%) deposit as required, the property shall immediately and on the same day be reoffered at auction; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee shall then deposit the down payment and proceeds of sale, as necessary in Any local FDIC insured bank in his/her own name as Referee, in accordance with CPLR 2609; and it is further

ORDERED, ADJUDGED AND DECREED that after the property is sold, the Referee shall execute a deed to the purchaser, in accordance with RPAPL § 1353 and the terms of sale, which shall be deemed a binding contract; and it is further

ORDERED, ADJUDGED AND DECREED that, in the event a party other than the Plaintiff becomes the purchaser at sale, the closing of title shall be held no later than 30 days after the date of such sale unless otherwise stipulated by all parties to the sale; and it is further

ORDERED, ADJUDGED AND DECREED that, if Plaintiff (or its affiliate, as defined in

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paragraph (a) of subdivision 1 of section six-1 of the Banking Law) is the purchaser, such party shall place the property back on the market for sale or other occupancy: (a) within 180 days of the execution of the deed of sale, or (b) within 90 days of the completion of construction, renovation, or rehabilitation of the property, provided that such construction, renovation, or rehabilitation proceeded diligently to completion, whichever comes first, provided however, that a court of competent jurisdiction may grant an extension for good cause; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee, on receiving the proceeds of such sale, shall forthwith pay therefrom, in accordance with their priority according to law, all taxes, assessments, sewer rents, or water rates, which are, or may become, liens on the property at the time of sale, which such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further

ORDERED, ADJUDGED AND DECREED, that the Referee then deposit the balance of said proceeds of sale in his/her own name as Referee in Any local FDIC insured bank, and shall thereafter make the following payments in accordance with RPAPL § 1354, as follows:

FIRST: FIRST: The Referee's statutory fees for conducting the sale, in accordance with CPLR 8003(b), in the sum of $250.00. This is in addition to the $500.00 paid to the Referee to compute and report. Total compensation is not to exceed $750.00

SECOND: All taxes, assessments, and water rates that are liens upon the property and monies necessary to redeem the property from any sales for unpaid taxes, assessments, or water rates that have not become absolute, and any other amounts due in accordance with RPAPL § 1354(2). Purchaser shall be responsible for interest and penalties due on any real property taxes accruing after the sale. The Referee shall not be responsible for the payment of penalties or fees

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pursuant to this appointment. The Purchaser shall hold the Referee harmless from any such penalties or fees assessed;

THIRD: The expenses of the sale and the advertising expenses as shown on the bills presented and certified by said Referee to be correct, duplicate copies of which shall be annexed to the report of sale;

FOURTH: The Referee shall then pay to the Plaintiff or its attorney the following:

Amount due per Referee's Report: $164,766.36 with interest at the note rate from March 17, 2018 until judgment entry date, together with any advances as provided for in the note and mortgage which Plaintiff has made for taxes, insurance, principal, and interest, and any other charges due to prior mortgagees or to maintain the property pending consummation of this foreclosure sale, not previously included in the computation, upon presentation of receipts for said expenditures to the Referee, all together with interest thereon pursuant to the note and mortgage, and then with interest from the date of entry of this judgment at the statutory rate until the date the deed is transferred;

Costs and Disbursements: ~~$~~ as computed by the County Clerk $2,463.00 adjudged to the Plaintiff for costs and disbursements in this action as taxed or calculated by the Clerk and inserted herein, with interest at the statutory judgment rate from the date of entry of this judgment;

Additional Allowance: $ 300.00 is hereby awarded to Plaintiff in addition to costs, with interest at the statutory judgment rate from the date of entry of this judgment, pursuant to CPLR Article 83;

Attorney Fees: $ 1537.00 is hereby awarded to Plaintiff as reasonable legal fees herein, with interest at the statutory rate from the date of entry of this judgment;

FIFTH: Surplus monies arising from the sale shall be paid by the officer conducting the sale To the Comptroller of Suffolk County

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within five days after receipt in accordance with RPAPL § 1354(4) and in accordance with local County rules regarding Surplus Monies; and it is further

ORDERED, ADJUDGED AND DECREED that if the Plaintiff is the purchaser of the property, or in the event that the rights of the purchasers at such sale and the terms of sale under this judgment shall be assigned to and be acquired by the Plaintiff, and a valid assignment thereof is filed with said Referee, said Referee shall not require Plaintiff to pay in cash the entire amount bid at sale, but shall execute and deliver to the Plaintiff or its assignee, a deed or deeds of the property sold upon the payment to said Referee of the amounts specified in items marked "First", "Second", and "Third" above; that the Referee shall allow the Plaintiff to pay the amounts specified in "Second" and "Third" above when it is receiving the deed; that the balance of the bid, after deducting the amounts paid by the Plaintiff, shall be applied to the amount due Plaintiff as specified in paragraph "Fourth" above; that Plaintiff shall pay any surplus after applying the balance of the bid to the Referee, who shall deposit it in accordance with paragraph "Fifth" above; and it is further

ORDERED, ADJUDGED AND DECREED that all expenses of recording the Referee's deed, including real property transfer tax, which is not a lien upon the property at the time of sale, shall be paid by the purchaser, not by the Referee from sale proceeds, and that any transfer tax shall be paid in accordance with Tax Law §1404; and it is further

ORDERED, ADJUDGED AND DECREED that the mortgaged property is to be sold in one parcel in "as is" physical order and condition, subject to any condition that an inspection of the property would disclose; any facts that an accurate survey of the property would show; and covenants, restrictions, declarations, reservations, easements, right of way, and public utility agreements of record, if any; any building and zoning ordinances of the municipality in which the mortgaged property is located and possible violations of same; any rights of tenants or persons in

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possession of the subject property; prior liens of record, if any, except those liens addressed in RPAPL § 1354; any equity of redemption of the United States of America to redeem the property within 120 days from the date of sale; and any rights pursuant to CPLR 317, 2003, and 5015, or any appeal of the underlying action or additional litigation brought by any Defendant or its successor or assignee contesting the validity of this foreclosure; and it is further

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ORDERED, ADJUDGED AND DECREED that the purchaser be let into possession of the property upon production in hand of the Referee's Deed or upon personal service of the Referee's deed in accordance with CPLR 308; and it is further

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ORDERED, ADJUDGED AND DECREED that the Defendants in this action and all persons claiming through them and any person obtaining an interest in the property after the filing of the Notice of Pendency are barred and foreclosed of all right, claim, lien, title, and interest in the property after the sale of the mortgaged property; and it is further

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ORDERED, ADJUDGED AND DECREED that within 30 days after completing the sale and executing the proper conveyance to the purchaser, unless the time is extended by the court, the officer making the sale shall file with the clerk a report under oath of the disposition of the proceeds of the sale in accordance with RPAPL § 1355(1) and follow all local County rules regarding handling of Surplus Monies; and it is further

ORDERED, ADJUDGED AND DECREED that if the purchaser or purchasers at said sale default(s) upon the bid and/or the terms of sale the Referee may place the property for resale without prior application to the Court unless Plaintiff's attorneys shall elect to make such application; and it is further

ORDERED, ADJUDGED AND DECREED that Plaintiff shall serve a copy for this Judgment with Notice of Entry upon the owner of the equity of redemption, any tenants named in

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Schedule A

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Property Address:
249 East Hoffman Avenue
Village of Lindenhurst, NY 11757

Tax I.D. No.: 0103-015.00-03.00-015.000

ALL that certain plot, piece or parcel of land, situate, lying and being in the Village of Lindenhurst, Town of Babylon, County of Suffolk and State of New York, known and designated as Lots 648 and 649 as shown on a certain map entitled "Revised Map of Lindenhurst Babylon Farms, Section 5" and filed in the Office of the Clerk of the County of Suffolk on July 8, 1927 as Map Number 843 being bounded and described as follows:

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BEGINNING at a point on the southerly side of East Hoffman Avenue (So. Hoffman Avenue) distant 650.00 feet easterly from the corner formed by the intersection of the easterly side of South Delaware Avenue with the southerly side of East Hoffman Avenue;

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RUNNING THENCE North 79 degrees 41 minutes 05 seconds East along the southerly side of East Hoffman Avenue, 21.33 feet;

THENCE North 81 degrees 14 minutes 50 seconds East still along the southerly side of East Hoffman Avenue, 28.67 feet;

THENCE South 8 degrees 45 minutes 10 seconds East, 100.00 feet;

THENCE South 81 degrees 14 minutes 50 seconds West, 27.31 feet;

THENCE South 79 degrees 41 minutes 05 seconds West, 19.97 feet;

THENCE North 10 degrees 18 minutes 55 seconds West, 100.00 feet to the southerly side of East Hoffman Avenue at the point or place of BEGINNING.

Subject to easements, covenants, and restriction of record.

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this action, and any other parties or person entitled to service, including the Referee appointed herein; and it is further

ORDERED, ADJUDGED AND DECREED that nothing herein shall be deemed to relieve Plaintiff of any obligation imposed by RPAPL § 1307 and RPAPL § 1308 to secure and maintain the property until such time as ownership of the property has been transferred and the deed duly recorded; and it is further

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ORDERED, ADJUDGED AND DECREED that when the Referee files a report of sale, he or she shall concurrently file a Foreclosure Actions Surplus Monies Form; and it is further

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ORDERED, ADJUDGED AND DECREED, that the appointed Referee shall file the completed signed Foreclosure Action Surplus Monies Form in accordance with the Court's procedures

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(http://www.nycourts.gov/courts/10jd/suffolk/forms/foreclosureactionsurplusmoniesrule.pdf); and it is further

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ORDERED, ADJUDGED AND DECREED that to ensure compliance herewith, Plaintiff shall file a written report with the court within six months from the date of entry of this judgment stating whether the sale has occurred and the outcome thereof.

Said property is commonly known as 249 E Hoffman Ave, Lindenhurst, NY 11757. The legal description of the mortgaged property referred to herein is annexed hereto as Schedule A, together with the terms of Sale.

Dated: 12/14/2018

ENTER:

Acting Justice of the Supreme Court

HON. JAMES C. HUDSON

Judith A. Pascale

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SUFFOLK COUNTY CLERK

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

WELLS FARGO BANK, NA,

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Plaintiff,

vs.

ANY UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF THE LATE JOHN A. HART, IF LIVING, AND IF ANY BE DEAD, ANY AND ALL PERSONS WHO ARE SPOUSES, WIDOWS, GRANTEES, MORTGAGEES, LIENORS, HEIRS, DEVISEES, DISTRIBUTEES OR SUCCESSORS IN INTEREST OF SUCH OF THEM AS MAY BE DEAD, AND THEIR SPOUSES, HEIRS, DEVISEES, DISTRIBUTEES AND SUCCESSORS IN INTEREST, ALL OF WHOM AND WHOSE NAMES AND PLACES OF RESIDENCE ARE UNKNOWN TO THE PLAINTIFF, UNITED STATES OF AMERICA BY THE INTERNAL REVENUE SERVICE, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, CARROLL A. HART, JOHN L. HART, PAUL J. HART, SHIRLEY J. HART, VIRGINIA E. HART,

Defendant(s).

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COSTS OF PLAINTIFF

Index No.: 13-26474

Mortgaged Property:
249 E Hoffman Ave
Lindenhurst, NY 11757

COUNTY: SUFFOLK
SBL#: 0103-015.00-03.00-015.000

COST TAXED AT $ 2463.80
TIME _____ DAY OF _____
JAN - 8 2019
JUDITH A. PASCALE
CLERK OF SUFFOLK COUNTY

COSTS

Costs before Note of Issue	CPLR 8201(1)	$200.00
Allowance by statute	CPLR 8302(a)(b)	$
First $200.00 at 10%.....$20.00 Next $800.00 at 5%.....$40.00 Next $2,000.00 at 2%.....$40.00 Next $5,000.00 at 1%.....$50.00		$150.00
Additional allowance	CPLR 8302(d)	$50.00
Discretionary costs on motion	CPLR 8303(a)(1)	$

FEES AND DISBURSEMENTS

Fee for index number	CPLR § 8018(a)	$400.00
Referee's fees to compute, per order of the Court	CPLR § 8003(a)	$500.00
Paid for Searches	CPLR8301(a)(10)	$648.80
Serving copy of Summons and Complaint	CPLR 8301(d)	$
Reproduction costs	CPLR 8301(a)(6)	$

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Fees for publication of Summons	CPLR 8301(a)(3)	$
Certified copies of papers	CPLR 8301(a)(4)	$30.00
Request for Judicial Intervention	CPLR 8020(a)	$95.00
Clerk's fee for filing of Notice of Pendency	CPLR 8021(a)(10)	$300.00
Service fees	CPLR 8301(d)	$
Motion Fees	CPLR 8020(a)	$90.00
Note of Issue	CPLR 8020(a)	$

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TOTAL $2,463.80

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